

**EIGHTY-FOURTH GENERAL ASSEMBLY
2011 REGULAR SESSION
DAILY
HOUSE CLIP SHEET**

MARCH 15, 2011

HOUSE FILE 470

H-1291

1 Amend House File 470 as follows:
2 1. Page 3, after line 14 by inserting:
3 <Sec. _____. Section 123.50, Code 2011, is amended by
4 adding the following new subsection:
5 NEW SUBSECTION. 5. If an employee of a licensee
6 or permittee violates section 123.49, subsection 2,
7 paragraph "h", the licensee or permittee shall not
8 be assessed a penalty under subsection 3, and the
9 violation shall be deemed not to be a violation of
10 section 123.49, subsection 2, paragraph "h", for the
11 purpose of determining the number of violations for
12 which a penalty may be assessed pursuant to subsection
13 3, if the employee holds a valid certificate of
14 completion of the alcohol compliance employee training
15 program pursuant to section 123.50A at the time of
16 the violation. A licensee or permittee may assert
17 only once in a four-year period the bar under this
18 subsection against assessment of a penalty pursuant to
19 subsection 3, for a violation of subsection 123.49,
20 subsection 2, paragraph "h", that takes place at the
21 same place of business location.
22 Sec. _____. NEW SECTION. 123.50A Alcohol compliance
23 employee training program.
24 1. If sufficient funding is appropriated, the
25 division shall develop an alcohol compliance employee
26 training program, not to exceed two hours in length
27 for employees and prospective employees of licensees
28 and permittees, to inform the employees about state
29 and federal liquor laws and regulations regarding the
30 sale of alcoholic liquor, wine, or beer to persons
31 under legal age, and compliance with and the importance
32 of laws regarding the sale of alcoholic liquor, wine,
33 or beer to persons under legal age. In developing
34 the alcohol compliance employee training program,
35 the division may consult with stakeholders who have
36 expertise in the laws and regulations regarding the
37 sale of alcoholic liquor, wine, or beer to persons
38 under legal age.
39 2. The alcohol compliance employee training program
40 shall be made available to employees and prospective
41 employees of licensees and permittees at no cost to the
42 employee, the prospective employee, or the licensee or
43 permittee, and in a manner which is as convenient and
44 accessible to the extent practicable throughout the
45 state so as to encourage attendance. Contingent upon
46 the availability of specified funds for provision of
47 the program, the division shall schedule the program
48 on at least a monthly basis and the program shall be
49 available at a location in at least a majority of
50 counties.

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1 3. Upon completion of the alcohol compliance
2 employee training program, an employee or prospective
3 employee shall receive a certificate of completion,
4 which shall be valid for a period of two years, unless
5 the employee or prospective employee is convicted of a
6 violation of section 123.49, subsection 2, paragraph
7 "h", in which case the certificate shall be void.

8 4. The division shall also offer periodic
9 continuing employee training and recertification for
10 employees who have completed initial training and
11 received an initial certificate of completion as part
12 of the alcohol compliance employee training program.>

13 2. By renumbering as necessary.

By IVERSON of Wright

H-1291 FILED MARCH 14, 2011

HOUSE FILE 470

H-1294

1 Amend the amendment, H-1109, to House File 470 as
2 follows:

3 1. Page 1, after line 3 by inserting:

4 <____. Page 4, after line 13 by inserting:

5 <Sec. ____ Section 123.56, Code 2011, is amended by
6 adding the following new subsection:

7 NEW SUBSECTION. 6A. A manufacturer may use the
8 space and equipment of another manufacturer for the
9 purpose of manufacturing native wine, provided that
10 such an alternating proprietorship arrangement is
11 approved by the alcohol and tobacco tax and trade
12 bureau of the United States department of the treasury.
13 A separate class "A" wine permit shall be issued to
14 each manufacturer, and each manufacturer shall be
15 subject to the provisions of this chapter and the
16 rules of the division. Notwithstanding subsection
17 5, not more than one class "C" native wine permit
18 shall be issued to a premises with alternating
19 proprietorships.>>

20 2. By renumbering as necessary.

By WENTHE of Fayette

H-1294 FILED MARCH 14, 2011

HOUSE FILE 470

H-1298

1 Amend House File 470 as follows:

2 1. Page 2, lines 26 and 27, by striking <Monday
3 through Saturday.>

By ALONS of Sioux

H-1298 FILED MARCH 14, 2011

HOUSE FILE 540

H-1287

1 Amend House File 540 as follows:

2 1. Page 2, line 21, by striking <or> and inserting
3 <of>

By KAUFMANN of Cedar

H-1287 FILED MARCH 14, 2011

HOUSE FILE 462

H-1295

1 Amend House File 462 as follows:

2 1. Page 1, by striking lines 6 through 11 and
3 inserting <in size under the custody of the department.
4 However, a motorboat with a power unit exceeding ten
5 horsepower shall not be operated on lake Macbride, a
6 motorboat with a power unit exceeding ten horsepower
7 may be operated only when permitted by rule and the
8 rule shall not authorize such use during the period
9 beginning on the Friday before Memorial Day and ending
10 on Labor Day inclusively. This paragraph does not
11 limit motorboat>
12 2. Title page, line 1, by striking <allowing> and
13 inserting <prohibiting>

By MASCHER of Johnson

H-1295 FILED MARCH 14, 2011

HOUSE FILE 462

H-1297

1 Amend House File 462 as follows:

2 1. Page 1, before line 1 by inserting:
3 <Section 1. Section 462A.12, Code 2011, is amended
4 by adding the following new subsection:
5 NEW SUBSECTION. 16. A person shall not operate
6 a motorboat on the waters of this state on which
7 the horsepower rating label as determined by the
8 manufacturer has been altered or concealed.>
9 2. Page 1, after line 14 by inserting:
10 <Sec. _____. Section 805.8B, subsection 1, Code 2011,
11 is amended by adding the following new paragraph:
12 NEW PARAGRAPH. f. For violations of provisions
13 requiring display of horsepower rating labels of
14 motorboats under section 462A.12, subsection 16, the
15 scheduled fine is one hundred dollars.>
16 3. Title page, line 1, after <Act> by inserting
17 <relating to the operation of motorboats including
18 prohibiting the operation of motorboats without proper
19 horsepower rating labels,>
20 4. Title page, line 2, after <time> by inserting <,
21 and providing penalties>
22 5. By renumbering as necessary.

By MASCHER of Johnson

H-1297 FILED MARCH 14, 2011

HOUSE FILE 467

H-1289

1 Amend House File 467 as follows:

2 1. By striking page 14, line 33, through page 15,
3 line 11.

4 2. By renumbering as necessary.

By L. MILLER of Scott

H-1289 FILED MARCH 14, 2011

HOUSE FILE 467

H-1290

1 Amend House File 467 as follows:

2 1. Page 16, after line 13 by inserting:

3 <Sec. _____. PILOT OR DEMONSTRATION RESEARCH PROJECTS

4 ---- PRACTICE OF PHARMACY.

5 1. Notwithstanding any provision of section
6 147.107, subsection 2, to the contrary, the board of
7 pharmacy may approve a pilot or demonstration research
8 project of innovative applications in the practice of
9 pharmacy relating to the authority of prescription
10 verification and the ability of a pharmacist to provide
11 enhanced patient care.

12 2. The board of pharmacy shall adopt rules and
13 procedures pursuant to chapter 17A for application for
14 and approval of such projects. The rules may include
15 exceptions to any existing rules under the purview of
16 the board of pharmacy as necessary for completion of
17 the project, limited to the duration of the project.
18 The duration of any project approved by the board of
19 pharmacy shall not exceed eighteen months and shall
20 comply with the rules and procedures adopted for such
21 projects.

22 3. The board of pharmacy shall not approve any
23 project that expands the practice of pharmacy as
24 defined in section 155A.3.

25 4. The board of pharmacy shall submit a report
26 to the chairpersons and ranking members of the joint
27 appropriations subcommittee on health and human
28 services regarding the approval or denial of any
29 projects.>

30 2. By renumbering as necessary.

By HEATON of Henry

H-1290 FILED MARCH 14, 2011

HOUSE FILE 531

H-1282

1 Amend House File 531 as follows:
2 1. Page 1, line 14, after <education.> by inserting
3 <However, telemedicine shall not be used to diagnose
4 and prescribe a medical abortion. For the purposes
5 of the state plan amendment, "medical abortion" means
6 the use of a medication including but not limited to
7 mifepristone or ulipristal acetate to terminate a
8 pregnancy.>

By ALONS of Sioux

H-1282 FILED MARCH 14, 2011

HOUSE FILE 585

H-1285

1 Amend House File 585 as follows:
2 1. Page 6, by striking lines 9 and 10.
3 2. By renumbering as necessary.

By WILLEMS of Linn

H-1285 FILED MARCH 14, 2011

HOUSE FILE 589

H-1283

1 Amend House File 589 as follows:
2 1. Page 2, by striking lines 16 through 22.
3 2. Page 4, by striking lines 19 through 28.
4 3. Page 4, line 33, by striking <remain at> and
5 inserting <remain on or in>
6 4. Page 8, by striking lines 23 through 32.
7 5. By renumbering as necessary.

By ISENHART of Dubuque

H-1283 FILED MARCH 14, 2011

HOUSE FILE 589

H-1286

1 Amend House File 589 as follows:
2 1. Page 6, after line 29 by inserting:
3 <____. An animal shelter as defined in section
4 162.2.
5 _____. A representative of a nonprofit organization
6 present for the purpose of informing the public of an
7 illegal activity observed at the animal facility.>
8 2. By renumbering as necessary.

By LYKAM of Scott

H-1286 FILED MARCH 14, 2011

HOUSE FILE 589

H-1288

1 Amend House File 589 as follows:
2 1. Page 1, before line 1 by inserting:
3 <Section 1. Section 717.1, Code 2011, is amended by
4 adding the following new subsection:
5 NEW SUBSECTION. 01. "Egg-laying hen" means any
6 domesticated chicken, turkey, duck, goose, or guinea
7 fowl kept for purposes of egg production.
8 Sec. 2. NEW SECTION. 717.3 Confinement of
9 egg-laying hens ---- penalty.
10 1. In addition, to other applicable provisions of
11 this chapter, a person shall not tether or confine
12 an egg-laying hen as part of an animal facility as
13 provided in chapter 717A, for all or the majority of
14 any day, in a manner that prevents such egg-laying
15 hen from lying down, standing up, fully extending its
16 wings, or turning around freely.
17 2. A person who violates this section is guilty of
18 a serious misdemeanor.>
19 2. Page 10, after line 28 by inserting:
20 <Sec. ____ . EFFECTIVE DATES.
21 1. Except as provided in subsection 2, this Act
22 takes effect on July 1, 2011.
23 2. The sections of this Act amending section 717.1
24 and enacting section 717.3 take effect January 1,
25 2017.>
26 3. Title page, line 2, by striking <and providing>
27 and inserting <providing>
28 4. Title page, line 2, after <remedies> by
29 inserting <, and including effective date provisions>
30 5. By renumbering as necessary.

By MASCHER of Johnson

H-1288 FILED MARCH 14, 2011

HOUSE FILE 589

H-1292

1 Amend House File 589 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. Section 717A.1, Code 2011, is amended
5 by adding the following new subsection:

6 NEW SUBSECTION. 1A. "Agricultural animal facility"
7 or "facility" means a location where an agricultural
8 animal is maintained, including but not limited to a
9 location dedicated to farming as defined in section
10 9H.1, a livestock market, or an exhibition.

11 Sec. 2. Section 717A.1, subsection 2, Code 2011, is
12 amended to read as follows:

13 2. "Agricultural production" means any activity
14 related to maintaining an agricultural animal at
15 an agricultural animal facility or a crop on crop
16 operation property.

17 Sec. 3. Section 717A.1, subsections 3 and 4, Code
18 2011, are amended by striking the subsections.

19 Sec. 4. Section 717A.1, subsection 7, Code 2011, is
20 amended to read as follows:

21 7. "Crop operation" means a ~~commercial enterprise~~
22 ~~where a crop is maintained on the property of the~~
23 ~~commercial enterprise~~ location where a crop is
24 maintained, including but not limited to a crop field,
25 orchard, nursery, greenhouse, garden, elevator,
26 seedhouse, barn, or warehouse.

27 Sec. 5. Section 717A.1, subsection 9, paragraph a,
28 Code 2011, is amended to read as follows:

29 a. For an agricultural animal maintained at an
30 agricultural animal facility or property ~~belonging~~
31 ~~to~~ kept at an agricultural animal facility, "deprive"
32 means to do any of the following:

33 (1) Withhold the agricultural animal or property
34 for a period of time sufficient to significantly reduce
35 the value or enjoyment of the agricultural animal or
36 property.

37 (2) Withhold the agricultural animal or
38 property for ransom or upon condition to restore
39 the agricultural animal or property in return for
40 compensation.

41 (3) Dispose of the agricultural animal or property
42 in a manner that makes recovery of the agricultural
43 animal or property by its owner unlikely.

44 Sec. 6. Section 717A.1, subsection 10, paragraph a,
45 Code 2011, is amended to read as follows:

46 a. Keep and provide for the care and feeding of any
47 agricultural animal, including any activity relating
48 to confining, handling, breeding, transporting, or
49 exhibiting the animal.

50 Sec. 7. Section 717A.1, subsection 11, paragraphs a

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1 and b, Code 2011, are amended to read as follows:

2 a. A person, including a public or private entity,
3 who has a legal interest in an agricultural animal
4 maintained at the agricultural animal facility or other
5 property belonging to kept at an agricultural animal
6 facility, or a person who is authorized by the holder
7 of the legal interest to act on the holder's behalf in
8 maintaining the animal or keeping the other property.

9 b. A person, including a public or private entity,
10 who has a legal interest in a crop maintained at the
11 crop operation or ~~crop operation~~ other property kept at
12 the crop operation, or a person who is authorized by
13 the holder of the legal interest to act on the holder's
14 behalf in maintaining the crop or keeping the other
15 property.

16 Sec. 8. Section 717A.1, Code 2011, is amended by
17 adding the following new subsection:

18 NEW SUBSECTION. 11A. "Record" means any printed,
19 inscribed, visual, or audio information that is
20 placed or stored on a tangible medium, and that may
21 be accessed in a perceivable form, including but not
22 limited to any paper or electronic format.

23 Sec. 9. Section 717A.2, Code 2011, is amended by
24 striking the section and inserting in lieu thereof the
25 following:

26 717A.2 Agricultural animal facility tampering.

27 1. A person is guilty of agricultural animal
28 facility tampering if the person acts without the
29 consent of the owner of an agricultural animal facility
30 to willfully do any of the following:

31 a. Damage, destroy, or alter property kept at the
32 agricultural animal facility, including but not limited
33 to land, fixtures, structures, equipment, machinery,
34 vehicles, records, or computer software or data.

35 b. Kill or injure an agricultural animal maintained
36 at the agricultural animal facility, including by an act
37 of violence or the transmission of a disease including
38 but not limited to any infectious or contagious disease
39 designated by the department of agriculture and land
40 stewardship pursuant to section 163.2.

41 c. Take by theft an agricultural animal maintained
42 or other property kept at the agricultural animal
43 facility.

44 d. Disrupt operations conducted at the agricultural
45 animal facility, if the operations directly relate
46 to agricultural production, agricultural animal
47 maintenance, educational or scientific purposes, or
48 veterinary care.

49 2. A person who commits the offense of agricultural
50 animal facility tampering is guilty of the following:

1 a. Agricultural animal facility tampering in the
2 first degree occurs when the result of the offense
3 is damages incurred by the owner of the agricultural
4 animal facility of more than one hundred thousand
5 dollars. A person convicted of agricultural animal
6 facility tampering in the first degree is guilty of a
7 class "C" felony.

8 b. Agricultural animal facility tampering in the
9 second degree occurs when the result of the offense
10 is damages incurred by the owner of the agricultural
11 animal facility of more than ten thousand dollars but
12 not more than one hundred thousand dollars. A person
13 convicted of agricultural animal facility tampering in
14 the second degree is guilty of a class "D" felony.

15 c. Agricultural animal facility tampering in the
16 third degree occurs when the result of the offense
17 is damages incurred by the owner of the agricultural
18 animal facility of more than one thousand dollars but
19 not more than ten thousand dollars. A person convicted
20 of agricultural animal facility tampering in the third
21 degree is guilty of an aggravated misdemeanor.

22 d. Agricultural animal facility tampering in the
23 fourth degree occurs when the result of the offense is
24 the damages incurred by the owner of the agricultural
25 animal facility of more than three hundred dollars but
26 not more than one thousand dollars. A person convicted
27 of agricultural animal facility tampering in the fourth
28 degree is guilty of a serious misdemeanor.

29 e. Agricultural animal facility tampering in the
30 fifth degree occurs when the result of the offense
31 is damages incurred by the owner of the agricultural
32 animal facility of three hundred dollars or less. A
33 person convicted of agricultural animal facility
34 tampering in the fifth degree is guilty of a simple
35 misdemeanor.

36 3. A person who participates in a conspiracy to
37 commit the offense of agricultural animal facility
38 tampering, and who acts in furtherance of that
39 commission, is guilty of the same offense as the
40 person convicted of committing the offense on or in the
41 agricultural animal facility.

42 4. A person convicted of agricultural animal
43 facility tampering is subject to an order of
44 restitution as provided in chapter 910.

45 5. In determining the value of damages incurred
46 by an owner of an agricultural animal facility under
47 this section, a court shall calculate the actual and
48 consequential pecuniary losses resulting from the
49 commission of the offense.

50 Sec. 10. NEW SECTION. 717A.2A Agricultural animal

1 facility interference.

2 1. A person is guilty of agricultural animal
3 facility interference, if the person acts without the
4 consent of the owner of an agricultural animal facility
5 to willfully do any of the following:

6 a. Produce a record which reproduces an image or
7 sound occurring at the agricultural animal facility as
8 follows:

9 (1) The record must be created by the person while
10 at the agricultural animal facility.

11 (2) The record must be a reproduction of a visual
12 or audio experience occurring at the agricultural
13 animal facility, including but not limited to a
14 photographic or audio medium.

15 b. Possess or distribute a record which produces
16 an image or sound occurring at the agricultural animal
17 facility which was produced as provided in paragraph
18 "a".

19 c. Exercise control over the agricultural animal
20 facility including an agricultural animal maintained
21 at the agricultural animal facility or other property
22 kept at the agricultural animal facility, with intent
23 to deprive the agricultural animal facility of the
24 agricultural animal or property.

25 d. Enter onto the agricultural animal facility,
26 or remain at the agricultural animal facility, if the
27 person has notice that the facility is not open to
28 the public. A person has notice that an agricultural
29 animal facility is not open to the public if the person
30 is provided notice before entering onto the facility,
31 or the person refuses to immediately leave the facility
32 after being informed to leave. The notice may be in
33 the form of a written or verbal communication by the
34 owner, a fence or other enclosure designed to exclude
35 intruders or contain agricultural animals, or a sign
36 posted which is reasonably likely to come to the
37 attention of an intruder and which indicates that entry
38 is forbidden.

39 2. A person who commits the offense of agricultural
40 animal facility interference is guilty of the
41 following:

42 a. For the first conviction, the person is guilty
43 of an aggravated misdemeanor.

44 b. For a second or subsequent conviction, the
45 person is guilty of a class "D" felony.

46 3. A person convicted of agricultural animal
47 facility interference is subject to an order of
48 restitution as provided in chapter 910.

49 Sec. 11. NEW SECTION. 717A.2B Agricultural animal
50 facility fraud.

1 1. A person is guilty of agricultural animal
2 facility fraud, if the person willfully does any of the
3 following:

4 a. Obtains access to an agricultural animal
5 facility by false pretenses for the purpose of
6 committing an act not authorized by the owner of the
7 agricultural animal facility.

8 b. Makes a false statement or representation
9 as part of an application to be employed at the
10 agricultural animal facility, if the person knows it
11 to be false.

12 2. A person who commits the offense of agricultural
13 animal facility fraud is guilty of the following:

14 a. For the first conviction, the person is guilty
15 of an aggravated misdemeanor.

16 b. For a second or subsequent conviction, the
17 person is guilty of a class "D" felony.

18 3. A person convicted of agricultural animal
19 facility fraud is subject to an order of restitution
20 as provided in chapter 910.

21 Sec. 12. NEW SECTION. 717A.2C Agricultural animal
22 facilities ---- civil actions.

23 1. A person suffering damages resulting from the
24 commission of agricultural animal facility tampering
25 as provided in section 717A.2 or agricultural animal
26 facility interference as provided in section 717A.2A
27 may bring an action in the district court against
28 the person causing the damages to recover all of the
29 following:

30 a. An amount equaling three times all actual and
31 consequential damages.

32 b. Court costs and reasonable attorney fees.

33 2. In addition to awarding damages as provided in
34 subsection 1, a court may grant any equitable relief
35 that the court determines is appropriate. Nothing in
36 this chapter shall prevent a party from petitioning a
37 court for equitable relief.

38 Sec. 13. NEW SECTION. 717A.2D Agricultural animal
39 facilities ---- exceptions.

40 1. Section 717A.2 or 717A.2A does not prohibit any
41 conduct of a person holding a legal interest in an
42 agricultural animal facility, an agricultural animal
43 maintained at the agricultural animal facility, or
44 other property kept at the agricultural animal facility
45 which legal interest is superior to the legal interest
46 held by a person incurring damages resulting from the
47 conduct.

48 2. Section 717A.2 or 717A.2A does not apply to any
49 of the following:

50 a. A governmental agency or officer who is taking

1 lawful action involving an agricultural animal
2 facility, an agricultural animal maintained at the
3 agricultural animal facility, or other property kept at
4 the agricultural animal facility.

5 b. A licensed veterinarian practicing veterinary
6 medicine as provided in chapter 169 and according to
7 customary standards of care.

8 c. An animal shelter as defined in section 162.2.

9 d. A representative of a nonprofit organization
10 present for the purpose of informing the public of an
11 illegal activity observed at the agricultural animal
12 facility.

13 Sec. 14. Section 717A.3, Code 2011, is amended by
14 striking the section and inserting in lieu thereof the
15 following:

16 717A.3 Crop operation tampering.

17 1. A person is guilty of crop operation tampering
18 if the person acts without the consent of the owner of
19 a crop operation to willfully do any of the following:

20 a. Damage, destroy, or alter property kept at the
21 crop operation, including but not limited to land,
22 fixtures, structures, equipment, machinery, vehicles,
23 records, or computer software or data.

24 b. Destroy or injure a crop maintained at a crop
25 operation, including by an act of violence or the
26 transmission of a disease including but not limited to
27 any disease or pests.

28 c. Take by theft a crop maintained or other
29 personal property kept at the crop operation.

30 d. Disrupt operations conducted at the crop
31 operation, if the operations directly relate to
32 agricultural production, crop maintenance, educational
33 or scientific purposes, or horticultural care.

34 2. A person who commits the offense of crop
35 operation tampering is guilty of the following:

36 a. Crop operation tampering in the first degree
37 occurs when the result of the offense is damages
38 incurred by the owner of more than one hundred
39 thousand dollars. A person convicted of crop operation
40 tampering in the first degree is guilty of a class "C"
41 felony.

42 b. Crop operation tampering in the second degree
43 occurs when the result of the offense is damages
44 incurred by the owner of the crop operation of more
45 than ten thousand dollars but not more than one hundred
46 thousand dollars. A person convicted of crop operation
47 tampering in the second degree is guilty of a class "D"
48 felony.

49 c. Crop operation tampering in the third degree
50 occurs when the result of the offense is damages

1 incurred by the owner of the crop operation of more
2 than one thousand dollars but not more than ten
3 thousand dollars. A person convicted of crop operation
4 property tampering in the third degree is guilty of an
5 aggravated misdemeanor.

6 d. Crop operation tampering in the fourth degree
7 occurs when the result of the offense is damages
8 incurred by the owner of the crop operation of more
9 than three hundred dollars but not more than one
10 thousand dollars. A person convicted of crop operation
11 tampering in the fourth degree is guilty of a serious
12 misdemeanor.

13 e. Crop operation tampering in the fifth degree
14 occurs when the result of the offense is damages
15 incurred by the owner of the crop operation of three
16 hundred dollars or less. A person convicted of crop
17 operation tampering in the fifth degree is guilty of a
18 simple misdemeanor.

19 3. A person who participates in a conspiracy to
20 commit the offense of crop operation tampering, and who
21 acts in furtherance of that commission, is guilty of
22 the same offense as the person convicted of committing
23 the offense on or in the crop operation.

24 4. A person convicted of crop operation tampering
25 is subject to an order of restitution as provided in
26 chapter 910.

27 5. In determining the value of damages incurred
28 under this section, a court shall calculate the actual
29 and consequential pecuniary losses resulting from the
30 commission of the offense.

31 Sec. 15. NEW SECTION. 717A.3A Crop operation
32 interference.

33 1. A person is guilty of crop operation
34 interference, if the person acts without the consent
35 of the owner of a crop operation to willfully do any
36 of the following:

37 a. Produce a record which reproduces an image or
38 sound occurring at the crop operation as follows:

39 (1) The record must be created by the person while
40 at the crop operation.

41 (2) The record must be a reproduction of a visual
42 or audio experience occurring at the crop operation,
43 including but not limited to a photographic or audio
44 medium.

45 b. Possess or distribute a record which produces an
46 image or sound occurring at the crop operation which
47 was produced as provided in paragraph "a".

48 c. Exercise control over the crop operation,
49 including a crop maintained at the crop operation or
50 other property kept at the crop operation, with intent

1 to deprive the crop operation of the crop or property.
2 d. Enter onto the crop operation, or remain on
3 or in the crop operation, if the person has notice
4 that the crop operation is not open to the public. A
5 person has notice that a crop operation is not open
6 to the public if the person is provided notice before
7 entering onto the crop operation, or the person refuses
8 to immediately leave the crop operation after being
9 informed to leave. The notice may be in the form of a
10 written or verbal communication by the owner, a fence
11 or other enclosure designed to exclude intruders or
12 contain crops, or a sign posted which is reasonably
13 likely to come to the attention of an intruder and
14 which indicates that entry is forbidden.

15 2. A person who commits the offense of crop
16 operation interference is guilty of the following:

17 a. For the first conviction, the person is guilty
18 of an aggravated misdemeanor.

19 b. For a second or subsequent conviction, the
20 person is guilty of a class "D" felony.

21 3. A person convicted of crop operation
22 interference is subject to an order of restitution as
23 provided in chapter 910.

24 Sec. 16. NEW SECTION. 717A.3B Crop operation
25 fraud.

26 1. A person is guilty of crop operation fraud, if
27 the person willfully does any of the following:

28 a. Obtains access to a crop operation by false
29 pretenses for the purpose of committing an act not
30 authorized by the owner of the crop operation.

31 b. Makes a false statement or representation
32 as part of an application to be employed at a crop
33 operation, if the person knows it to be false.

34 2. A person who commits the offense of crop
35 operation fraud is guilty of the following:

36 a. For the first conviction, the person is guilty
37 of an aggravated misdemeanor.

38 b. For a second or subsequent conviction, the
39 person is guilty of a class "D" felony.

40 3. A person convicted of crop operation fraud
41 is subject to an order of restitution as provided in
42 chapter 910.

43 Sec. 17. NEW SECTION. 717A.3C Crop operations ----
44 civil actions.

45 1. A person suffering damages resulting from the
46 commission of crop operation tampering as provided
47 in section 717A.3 or crop operation interference as
48 provided in section 717A.3A may bring an action in the
49 district court against the person causing the damage to
50 recover all of the following:

1 a. An amount equaling three times all actual and
2 consequential damages.

3 b. Court costs and reasonable attorney fees.

4 2. In addition to awarding damages as provided in
5 subsection 1, a court may grant any equitable relief
6 that the court determines is appropriate. Nothing in
7 this chapter shall prevent a party from petitioning a
8 court for equitable relief.

9 Sec. 18. NEW SECTION. 717A.3D Crop operations ----
10 exceptions.

11 1. Section 717A.3 or 717A.3A does not prohibit any
12 conduct of a person holding a legal interest in a crop
13 operation, a crop maintained at the crop operation, or
14 other property kept at the crop operation which legal
15 interest is superior to the legal interest held by a
16 person incurring damages resulting from the conduct.

17 2. Section 717A.3 or 717A.3A does not apply to a
18 governmental agency or officer who is taking lawful
19 action involving a crop operation, a crop maintained
20 at the crop operation, or other property kept at the
21 crop operation.

22 Sec. 19. Section 717A.4, subsection 1, Code 2011,
23 is amended to read as follows:

24 1. Except as provided in subsection 2, a person
25 shall not willfully possess, transport, or transfer a
26 pathogen with an intent to threaten the health of an
27 agricultural animal or crop.

28 a. For agricultural animals, a pathogen restricted
29 under this section shall be limited to a biological
30 agent or toxin listed in 9 C.F.R. { 121.2(b), as that
31 list exists on January 1, 2004.

32 b. For crops, a pathogen restricted under this
33 section shall be limited to a biological agent or toxin
34 listed in 7 C.F.R. { 331.3, as that list exists on
35 January 1, 2004.>

36 2. By renumbering as necessary.

By LYKAM of Scott

HOUSE FILE 617

H-1293

1 Amend House File 617 as follows:
2 1. Page 4, after line 19 by inserting:
3 <Sec. _____. Section 123.56, Code 2011, is amended by
4 adding the following new subsection:
5 NEW SUBSECTION. 6A. A manufacturer may use the
6 space and equipment of another manufacturer for the
7 purpose of manufacturing native wine, provided that
8 such an alternating proprietorship arrangement is
9 approved by the alcohol and tobacco tax and trade
10 bureau of the United States department of the treasury.
11 A separate class "A" wine permit shall be issued to
12 each manufacturer, and each manufacturer shall be
13 subject to the provisions of this chapter and the rules
14 of the division. Notwithstanding subsection 5, not
15 more than one class "C" native wine permit shall be
16 issued to a premises with alternating proprietorships.>
17 2. By renumbering as necessary.

By WENTHE of Fayette

H-1293 FILED MARCH 14, 2011

HOUSE FILE 617

H-1296

1 Amend House File 617 as follows:
2 1. Page 2, after line 10 by inserting:
3 <Sec. _____. Section 123.6, Code 2011, is amended to
4 read as follows:
5 123.6 Appointment ---- term ---- expenses ----
6 compensation.
7 Appointments shall be for five-year staggered
8 terms beginning and ending as provided by section
9 69.19 and shall be made by the governor, subject to
10 confirmation by the senate. Members of the commission
11 shall be chosen on the basis of managerial ability and
12 experience as business executives. ~~One member~~ Not
13 more than two members of the commission may be the
14 holder of or have an interest in a permit or license
15 to manufacture alcoholic liquor, wine, or beer or to
16 sell alcoholic liquor, wine, or beer at wholesale or
17 retail. A member may be reappointed for one additional
18 term. Each member appointed is entitled to receive
19 reimbursement of actual expenses incurred while
20 attending meetings. Each member of the commission may
21 also be eligible to receive compensation as provided
22 in section 7E.6.>
23 2. By renumbering as necessary.

By IVERSON of Wright

H-1296 FILED MARCH 14, 2011

HOUSE FILE 645

H-1284

1 Amend House File 645 as follows:

2 1. Page 2, after line 2 by inserting:

3 <____. TEACHER SHORTAGE LOAN FORGIVENESS PROGRAM

4 For the teacher shortage loan forgiveness program

5 established in section 261.112:

6 \$ 250,000>

7 2. By renumbering as necessary.

By DOLECHECK of Ringgold

WINCKLER of Scott

H-1284 FILED MARCH 14, 2011

Fiscal Note

Fiscal Services Division



HF 526 – Criminal Possession Definition Changes (LSB 2672HV)

Analyst: Beth Lenstra (Phone: 515-281-6301) (beth.lenstra@legis.state.ia.us)

Fiscal Note Version – New

Requested by Representative Ako Abdul-Samad

Description

House File 526 amends the definition of possession (or possess) in Iowa's Criminal Code.

Background

Correctional and Fiscal Information

- There are more than 54 criminal laws that reference the term possession (or possess) and may affect criminal convictions under the Bill's provisions, excluding possession with intent to deliver and possession with intent to manufacture controlled substances. Offenses range from simple misdemeanors to Class C felonies and include felony enhancements to original penalties.
- The Criminal and Juvenile Justice Planning Division (CJJPD) of the Department of Human Rights released a report entitled, "Iowa's Prison Population Forecast FY 2010 – FY 2020." The Report indicates if current offender behaviors and justice system trends, policies, and practices remain unchanged, the prison population will be approximately 10,409 inmates by June 30, 2020, an increase of 21.0% over the next ten years.
- By FY 2020, without any additional prison beds, the prison population is expected to reach 135.8% of design capacity. This figure is based on the assumption that the additional beds authorized during the 2008 Legislative Session for Fort Madison and Mitchellville will be operating by FY 2020. If the population reaches 10,409 inmates, two additional 800-bed prisons will be required, in addition to the expansions authorized at Fort Madison and Mitchellville.
- If two additional prisons are built over the next decade, projected design capacity will be 9,266 beds with a projected population of 10,409 offenders and the prison system will be operating at 112.3% of capacity. The cost of one 800-bed prison with a mix of medium and minimum custody levels is approximately \$85.0 million for construction; construction of two such prisons would be approximately \$170.0 million. Operating costs are estimated to be at least \$30.0 million annually per prison.
- Iowa's prison population was at 123.7% of capacity on March 7, 2011, with 8,917 offenders confined in space designed for 7,209.

Minority Data Information

- The U.S. Census estimate for Iowa was 3.0 million people as of July 1, 2009 (the most current estimate available). Men comprise 49.3% of the population. Approximately 92.7% of Iowa's population is white. The composition of the remaining 7.3% is: 2.5% black, 0.3% American Indian or Alaska Native; 1.7% Asian; and 2.9% is of two or more races or unknown.
- Iowa's prison population was 8,603 offenders on June 30, 2010. Men comprised 91.8% of the population. According to the CJJPD, the racial composition of the prison system was: 71.7% white; 25.5% black; 1.0% Asian or Pacific Islander; and 1.8% American Indian or Alaska Native. Included in these racial groups were 6.8% that identified themselves as Hispanic (nearly all of these identified themselves racially as being white).

- According to the CJJPD, on June 30, 2010, approximately 8.2% of the offenders in prison were women and 26.1% of offenders under supervision in Community-Based Corrections (CBC) were women. Approximately 21.5% of the total offender population under correctional supervision was women.
- In FY 2010 where race was known for drug possession convictions, 75.3% were Caucasian, 19.0% were African American, and 5.7% were other races or ethnicities.

Assumptions

Correctional and Fiscal Information

- Code Section 702.1 states Iowa's policy of uniformity, "Wherever a term, word or phrase is defined in the criminal code, such meaning shall be given wherever it appears in the Code, unless it is being specially defined for a special purpose."
- Defining "possession," "actual possession," and "constructive possession" may impact the juvenile and civil justice system.
- It is not known if the Bill's provisions relate to such acts as underage possession of alcohol or tobacco products.
- It is not known if the Bill's provisions relate to violations under the purview of the Department of Natural Resources (DNR), such as possession of fish over the legal limit, or game out of season.
- It is not known if the Bill's provisions relate to violations under the purview of the Department of Agriculture and Land Stewardship, such as possession and control of adulterated and improperly labeled articles.
- It is not known if the Bill's provisions impact other civil actions, such as those related to real estate foreclosure or landlord/tenant laws.

Minority Data Information

Approximately 14.8% of Iowa's population has at least one disability. The number of disabled offenders convicted under this Bill may be 14.8%.

Summary of Impacts

Correctional Impact

To the extent the Bill's provisions eliminate ambiguity and codify current practice and case law, there will be increased efficiencies for law enforcement and trial courts.

To the extent the Bill's provisions result in additional criminal convictions, there will be an impact on county jail operations, and the State corrections system, including the prison system, probation, parole, and residential facilities. This will further exacerbate an already crowded system.

To the extent the Bill's provisions result in appeals to establish new case law, there will be increased costs within the criminal justice system, including workload for county attorneys, the court system, and State prosecution and defense.

Minority Impact

To the extent this Bill results in additional criminal convictions, there will be a disproportionate impact on minorities because approximately 24.7% of offenders convicted under the Bill's provisions may be minorities. Additional criminal convictions will result in an increased number of minority offenders supervised in the corrections system.

Fiscal Impact

The fiscal impact cannot be determined because the number of court actions and convictions that will occur as a result of the changes in this Bill cannot be predicted. The cost to the State General Fund may be significant if the Bill results in additional convictions under the Criminal Code. Examples of the range of average State costs for the penalties available under the Bill include:

- \$27 (court costs) to \$327 (court costs and indigent defense) for one simple misdemeanor conviction.
- \$201 (court costs) to \$5,300 (court costs including a jury, indigent defense, prison, and parole) for one serious misdemeanor conviction. The maximum costs will be incurred across multiple fiscal years while the offender is supervised in the correctional system, either in prison or the community.
- \$2,100 (court costs and probation) to \$6,700 (court costs with a jury, prison, parole, and indigent defense) for one aggravated misdemeanor. Costs will be incurred across multiple fiscal years while the offender is supervised in the correctional system, either in prison or the community.
- \$4,750 (court costs, indigent defense, and probation) to \$12,300 (court costs with a jury, indigent defense, prison, and parole) for one Class D felony conviction. Costs will be incurred across multiple fiscal years while the offender is supervised in the correctional system, either in prison or the community.
- \$5,700 (court costs, probation and indigent defense) to \$18,800 (court costs with a jury, prison, parole, and indigent defense for one Class C felony conviction). Costs will be incurred across multiple fiscal years while the offender is supervised in the correctional system, either in prison or the community.

To the extent sentences to county jails increase under this Bill, there will be an impact on county budgets. However, that impact cannot be estimated due to a lack of data.

To the extent, if any, the Bill's provisions relate to Iowa's civil and juvenile justice systems, there will be a fiscal impact. That impact cannot be determined due to a lack of data.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Department of Corrections
Office of the State Public Defender
Judicial Branch

/s/ Holly M. Lyons

March 14, 2011

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to Code [Section 2.56](#). Data used in developing this fiscal note, including correctional and minority impact information, is available from the Fiscal Services Division of the Legislative Services Agency upon request.

Fiscal Note

Fiscal Services Division



HF 561 – Nuclear Power Generation (LSB 2351HV)

Analyst: Joseph Brandstatter (Phone: 515-281-8223) (joseph.brandstatter@legis.state.ia.us)

Fiscal Note Version – New

Description

House File 561 relates to permitting, licensing, constructing, and operating nuclear generation facilities in the State of Iowa. The Bill requires rate-regulated electric utilities to file an application with the Iowa Utilities Board (IUB) for ratemaking principles for the construction of a nuclear generating facility. The Bill states that a utility may recover all prudent costs of permitting, licensing, and construction of a nuclear facility from utility customers whether a facility is completed or not.

Background

House File 2399 (Public Utilities Nuclear Power Analysis Act) enacted in 2010 required certain rate-regulated public utilities to undertake analyses of and preparation for the possible construction of nuclear generating facilities in this state.

Assumptions

The IUB and the Office of Consumer Advocate (OCA) lack the technical expertise of nuclear generation licensing and approval and would need to hire specialized staff and require continuing education. Due to statutory responsibilities requiring the OCA to represent consumer interests and the public in all proceedings before the IUB, both the IUB and OCA would need a separate Nuclear Construction Engineer position.

The IUB would require the addition of 5.0 FTE positions: 1.0 Nuclear Construction Engineer, 2.0 Senior Utility Analysts, and 2.0 Utility Specialists. Due to the specialized nature and high demand of these positions, several of these hires may come from outside the State and require paid moving expenses. The IUB anticipates making these hires in the fourth quarter of FY 2011.

Additional outside consulting and continuing education for new employees will be needed by the IUB beginning in FY 2012. The hourly rate for consulting is expected to equal \$250 per hour and the IUB assumes \$5,000 in annual continuing education for each new employee annually.

The OCA will require the addition of 1.0 Nuclear Construction Engineer FTE position. The OCA anticipates making this hire in the beginning of FY 2012. The OCA would require approximately 200-400 hours annually of outside consulting costs beginning in FY 2012.

Fiscal Impact

House File 561 is expected to increase expenditures to the IUB by \$188,000 for FY 2011 and \$625,000 and 5.0 FTEs for FY 2012 and subsequent fiscal years. The OCA will see increased expenditures of \$168,000 and 1.0 FTE in FY 2012 and subsequent fiscal years.

The additional costs will have no impact on the State General Fund since both the IUB and OCA are funded by the utility industry. Both departments receive appropriations from the Department of Commerce Revolving Fund rather than the General Fund. Both the IUB and OCA will

increase assessments to the regulated public utilities by the amount specified. The regulated industry may pass the increased assessment costs on to utility customers.

Sources

Iowa Utilities Board
Office of the Consumer Advocate

/s/ Holly M. Lyons

March 11, 2011

The fiscal note for this bill was prepared pursuant to **Joint Rule 17** and the correctional and minority impact statements were prepared pursuant to Code **Section 2.56**. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
